



State of California
Commission on Judicial Performance
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Web Site: <http://cjp.ca.gov>

Date: November 4, 2014

To: Persons and Organizations Interested in Rules Relating to Proceedings of the Commission on Judicial Performance

From: Commission on Judicial Performance
Victoria B. Henley, Director-Chief Counsel

Subject: Invitation to Comment on Proposed Amendments to Rules of the Commission on Judicial Performance

Policy Declaration 3.5 of the Commission on Judicial Performance provides that every two years, in even-numbered years, the commission shall review its rules and seek public comment on any proposed enactments, amendments or repeals. As part of the 2014 review of its rules, the commission has approved circulation of amendments to rule 102(k) (Disclosure of information to regulatory agencies upon retirement or resignation) and 102(p) (Disclosure of information to Fair Political Practices Commission).

The proposed amendments with a brief explanation of the changes and a form for submission of comments can be found on the commission's website at <http://cjp.ca.gov> under "Recent News" on the Home page and under "Legal Authority." **The deadline for comments is January 5, 2015.** Thereafter, individuals and organizations may submit responses to comments until February 4, 2015.

Copies of comments and responses to comments are available to the public upon request. (See Policy Declaration 3.5 for the commission's rules review procedures.)

Comments and responses to comments should be submitted in writing by mail or facsimile to:

Commission on Judicial Performance
Attn: Janice M. Brickley, Legal Advisor to Commissioners
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102
FAX: (415) 557-1266

PROPOSED AMENDMENTS TO RULE 102, SUBDIVISIONS (k) AND (p) WOULD ALLOW THE COMMISSION TO RELEASE TO A REGULATORY AGENCY INFORMATION THAT A JUDICIAL OFFICER OR FORMER JUDICIAL OFFICER HAS VIOLATED A LAW OR REGULATION WITHIN THE AGENCY'S JURISDICTION.

The proposed amendments are as follows (amended language is reflected in italics, deleted language is in strike-out):

(k) (Disclosure of information to *the State Bar* ~~regulatory agencies upon retirement or resignation~~) If a judge retires or resigns from office or if a subordinate judicial officer retires, resigns or is terminated from employment after a complaint is filed with the commission, or if a complaint is filed with the commission after the retirement, resignation or termination, the commission may, in the interest of justice or to maintain public confidence in the administration of justice, release information concerning the complaint, investigation and proceedings to the State Bar ~~or to other regulatory agencies~~, provided that the commission has commenced a preliminary investigation or other proceeding and the judge or subordinate judicial officer has had an opportunity to respond to the commission's inquiry or preliminary investigation letter.

(p) (Disclosure of information to *regulatory agencies* ~~Fair Political Practices Commission~~) The commission may *at any time* release to *a federal, state or local regulatory agency, including the Fair Political Practices Commission (FPPC)*, ~~at any time~~ information which reveals *a possible violation of a law or regulation within the agency's jurisdiction* ~~the Political Reform Act or FPPC Regulations~~ by a judge, former judge, subordinate judicial officer or former subordinate judicial officer.

Explanation of Proposed Amendments

Commission Rule 102 pertains to confidentiality and disclosure in commission proceedings. It currently provides exceptions to confidentiality, including for disclosure of information to prosecuting authorities, the Fair Political Practices Commission (FPPC) and the State Bar (upon resignation or retirement). If the commission has reliable information that a judge has violated a law or regulation within the jurisdiction of a federal, state or local regulatory agency, it should have discretion to provide that information to the appropriate agency for the same public protection reasons it has the authority to make referrals to the prosecuting authorities, the FPPC and the State Bar. Thus, the proposed rule would expand the exceptions to confidentiality to allow the commission to disclose to federal, state or local regulatory agencies information which reveals a possible violation of a law or regulation within that agency's jurisdiction by a judicial officer or former judicial officer.

COMMENT

Proposed Amendments to Rules of the Commission on Judicial Performance

Please copy this sheet. Use a separate sheet for each issue.

Rule:

Issue:

Comment:

Alternative proposal:

(Continue on back or on a separate sheet.)

Name: _____ Title: _____

Address: _____

Telephone: _____

Your comment may become public during the review of the proposed amended rules regarding the Commission on Judicial Performance. Thank you for your assistance.

Please return on or before January 5, 2015.

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